



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/169680

PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on November 17, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits effective November 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Belinda Brown
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On October 5, 2015, the Petitioner completed a FS renewal. He reported employment with [REDACTED]. He also reported he receives unearned income from Social

Security of \$836.78/month. Household size is one. Petitioner is disabled. Petitioner reported rent expense of \$525/month. He reported utility expenses for electric and water.

3. On October 6, 2015, the agency issued a Notice of Proof Needed to the Petitioner informing him that he must submit employment and income verification from [REDACTED] to the agency by October 15, 2015.
4. On October 19, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would end effective November 1, 2015 due to failure to submit requested information to complete his renewal.
5. On October 22, 2015, an employment verification from [REDACTED] was submitted to the agency. Based on the employment verification, the agency calculated earned income of \$338.45/month.
6. On October 23, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would be \$16/month effective November 1, 2015.
7. On October 28, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

On April 28, 2014, a change was made to the standard utility allowance/deduction available to household receiving FS benefits. See DHS Operations Memo 14-16. Households that have received a payment from the Wisconsin Housing Energy Assistance Program (WHEAP) in the previous 12 months receive the full Housing Standard Utility Allowance (HSUA) of \$458/month. Households that pay two or more non-heat qualifying utility expenses (phone, water, sewer, electric, cooking fuel, or trash) receive a Limited Utility Allowance (LUA) of \$293/month. Households that pay only a non-heat electric bill receive an Electric Utility Allowance (EUA) of \$119/month. Household that pay only water, sewer, septic tank installation/maintenance or wastewater treatment bills receive a Water and Sewer Utility Allowance (WUA) of \$78/month. Household that pay only a cooking fuel expense receive a Fuel Utility Allowance (FUA) of \$46/month. Households that pay only a telephone expense, including cell phones, receive a Phone Utility Allowance (PUA) of \$30/month. Households that pay only a trash or garbage bill receive a Garbage and Trash Utility Allowance (TUA) of \$20/month.

In this case, the Petitioner does not dispute the income calculated by the agency. Total gross household income is \$1175.23/month (\$836.78 from SS and \$338.45 from [REDACTED]). The agency applied the standard deduction of \$155 and an earned income deduction of \$67.69 (20% of earned income). The Petitioner does not dispute his rent expense of \$525. He pays two utilities – electric and water. The agency calculated total shelter expenses of \$818/month (\$525 rent plus a utility standard of \$293). It calculated excess shelter costs above 50% of net income as \$341.73. The Petitioner testified that he does not have any out-of-pocket medical expenses. He was advised to report those to the agency if he has any so that the agency can apply those expenses.

I reviewed the agency's calculations and find no error in them.

The Petitioner testified that \$16/month is not sufficient to meet his needs. I recognize the validity of his argument. However, the agency and the administrative law judge are bound to apply the regulations as they are written. Based on the regulations and the information provided, I conclude the agency properly determined the Petitioner's FS benefits at \$16/month effective November 1, 2015.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits at \$16/month effective November 1, 2015.

THEREFORE, it is **ORDERED**

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

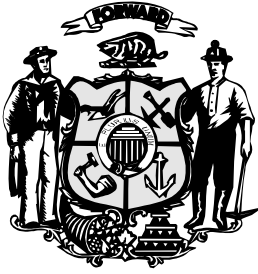
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of December, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 17, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability